

SENATE BILL 648

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1998 Regular Session
(8lr1654)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Van Hollen, Ruben, Teitelbaum, Forehand, and Kelley**
Kelley, and Middlebrooks

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Child Protection Act**

3 FOR the purpose of modifying the ~~criteria~~ findings a court ~~must consider~~ is required
4 to make when determining whether it should grant a decree of adoption under
5 certain circumstances; ~~establishing a rebuttable presumption that a natural~~
6 ~~parent is unfit to care for a child under certain circumstances;~~ requiring the
7 court to make a specific finding as to whether or not the return of a child to the
8 custody of the natural parent poses an unacceptable risk to the future safety of the
9 child under certain circumstances; requiring the court to ~~terminate a natural~~
10 ~~parent's right to a child under certain circumstances~~ give paramount primary
11 consideration to the safety and health of the child in making a certain
12 determination; and generally relating to independent adoption without parental
13 consent.

14 BY repealing and reenacting, with amendments,
15 Article - Family Law

1 Section 5-312
 2 Annotated Code of Maryland
 3 (1991 Replacement Volume and 1997 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Family Law**

7 5-312.

8 (a) (1) This section applies only to independent adoptions in which a natural
 9 parent affirmatively withholds consent by filing a notice of objection.

10 (2) This section does not permit a licensed or approved foster parent to
 11 petition a court for adoption of a child who was placed with the foster parent by a
 12 child placement agency unless the child placement agency consents.

13 (b) Without the consent of the child's natural parent, a court may grant a
 14 decree of adoption to a stepparent, relative, or other individual who has exercised
 15 physical care, custody, or control of a child for at least 6 months, if by clear and
 16 convincing evidence the court finds that:

17 (1) it is in the best interest of the child to terminate the natural parent's
 18 rights as to the child;

19 (2) the child has been out of the custody of the natural parent for at least
 20 1 year;

21 (3) the child has developed significant feelings toward and emotional ties
 22 with the petitioner; and

23 (4) the natural parent:

24 (i) has not maintained meaningful contact with the child during
 25 the time the petitioner has had custody despite the opportunity to do so;

26 (ii) has repeatedly failed to contribute to the physical care and
 27 support of the child although financially able to do so;

28 (iii) has ~~been convicted of~~ COMMITTED child abuse ~~{of the child}~~
 29 OR ANOTHER CHILD OF THE NATURAL PARENT; or

30 (iv) has ~~been~~:

31 ~~1.} convicted of a crime of violence, as defined in Article 27, §~~
 32 ~~643B of the Code, against [the other natural parent of the child;] AN INDIVIDUAL~~
 33 ~~RESIDING IN THE NATURAL PARENT'S HOUSEHOLD [and~~

1 (I) GIVE PARAMOUNT PRIMARY CONSIDERATION TO THE SAFETY, -
2 ~~AND THE EMOTIONAL, PSYCHOLOGICAL, AND PHYSICAL HEALTH OF THE CHILD, AND~~
3 ~~GIVE SECONDARY CONSIDERATION TO ALL OTHER FACTORS; AND~~

4 [(1)] (II) REQUEST an investigation by an appropriate agency[:] and

5 [(2)] a report of the investigation that includes summaries of:

6 [(i)] 1. the child's feelings toward and emotional ties with the
7 child's natural parents, the child's siblings, the petitioner, and any other individual
8 who may significantly affect the child's best interest;

9 [(ii)] 2. the child's adjustment to home, school, and community;
10 and

11 [(iii)] 3. if the natural parent is absent, an evaluation of the
12 petitioner's attempts to locate the absent natural parent.

13 (d) A court may not grant a decree of adoption under this section solely
14 because a natural parent:

15 (1) does not have legal custody of the child by reason of divorce or legal
16 separation; or

17 (2) has been deprived of custody of the child by the act of the other
18 natural parent.

19 (e) After the adoption, if it is in the child's best interest, the adoptive parent
20 and a nonconsenting natural parent may agree to visitation privileges between the
21 child and the natural parent or siblings.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1998.